RECENT DECISIONS

AGENCY—SCOPE OF EMPLOYMENT—FALSE IMPRISONMENT.—The plaintiff gave an agent of the defendant railroad company a suspicious but valid bill in payment for a ticket. Upon the agent's demand, the plaintiff gave him money that was manifestly genuine in exchange for the suspicious bill. Later, at the instance of the agent, the plaintiff was arrested for passing counterfeit money. The plaintiff sued the railroad company for false imprisonment. *Held,* the company is not liable. *Sacks* v. *St. Louis, etc., R. Co.* (Mo.), 192 S. W. 418.

It is a fundamental doctrine of the law of agency that a principal is liable for the tortious acts of his agent committed within the scope of the agent's employment. *Cosgrove* v. *Ogden,* 49 N. Y. 255, 10 Am. Rep. 361; *Blumenthal* v. *Shaw,* 23 C. C. A. 590, 77 Fed. 954. See 2 MECHEM, AGENCY, 2 ed., § 1874. If the act was within the scope of the agent's authority, it is immaterial that the principal derived no benefit from it, or that he did not authorize or direct it, or even that he had expressly forbidden it. *Singer Mfg. Co.* v. *Rahn,* 132 U. S. 518; *Jarvis* v. *Manhattan Beach Co.,* 148 N. Y. 652, 43 N. E. 68, 51 Am. St. Rep. 727. Nor is the principal relieved from liability because the agent, through lack of judgment or under the influence of passion, abused his authority and inflicted unnecessary injury. *McMahon* v. *Chicago City R. Co.,* 239 Ill. 334, 88 N. E. 223; *Neville* v. *Southern R. Co.,* 126 Tenn. 96, 146 S. W. 846, 40 L. R. A. (N. S.) 995.

The true test in all these cases is whether the act committed was within the scope of the agent's employment. *Euting* v. *Chicago, etc., Ry. Co.,* 116 Wis. 13, 92 N. W. 358, 96 Am. St. Rep. 936, 60 L. R. A. 158; *Robards* v. *Bannon Sewer Pipe Co.,* 130 Ky. 380, 113 S. W. 429, 132 Am. St. Rep. 394, 18 L. R. A. (N. S.) 923. See TIFFANY, AGENCY, § 63. The act is not deemed to be within the scope of the agent's employment, unless it was done while the agent was engaged in the performance of some authorized act, or some act naturally related or incident to those specifically authorized. *Morier* v. *St. Paul, etc., Ry. Co.,* 31 Minn. 351, 17 N. W. 952, 47 Am. Rep. 793. See 2 MECHEM, AGENCY, 2 ed., § 1879. The act is clearly within the scope of employment when it was intended, though mistakenly, to further the principal's interest in the undertaking in which the agent was employed. *Limpus* v. *London, etc., Co.,* 1 H. & C. 526. See *Texas, etc., R. Co.* v. *Scoville,* 10 C. C. A. 479, 62 Fed. 730, 27 L. R. A. 179. But where the agent acts without any reference to the authorized undertaking, as where he has completed it or turns aside from it to achieve some end of his own, his acts are not within the scope of his employment, and the principal is not responsible for them. *Storey* v. *Ashton,* L. R. 4 Q. B. 476; *McCarthy* v. *Timmins,* 178 Mass. 378, 86 Am. St. Rep. 490.

Where the agent causes an arrest for an attempt to defraud his principal, the most influential consideration in determining the question of scope of employment is usually whether the agent was acting on be-

half of his employer, to protect his interest or save him from loss, or whether he was acting on behalf of the state, to aid the police in bringing a criminal to justice. In the former case, it is held that the act is within the scope of his employment and that the principal is liable. *Lynch* v. *Metropolitan Elev. R. Co.*, 90 N. Y. 77, 43 Am. Rep. 141; *Palmeri* v. *Manhattan R. Co.*, 133 N. Y. 261, 30 N. E. 1001, 16 L. R. A. 136, 28 Am. St. Rep. 632; *West Chicago St. R. Co.* v. *Luleich*, 85 Ill. App. 643. In the latter, where he acts in the interest of the state, it is held that he exceeds the limits of his authority, and that the principal is not liable. *Allen* v. *London & S. W. R. Co.*, L. R. 6 Q. B. 65; *Mulligan* v. *New York, etc., R. Co.*, 129 N. Y. 506, 29 N. E. 952, 14 L. R. A. 791, 26 Am. St. Rep. 539; *Daniel* v. *Atlantic C. L. R. Co.*, 136 N. C. 517, 48 S. E. 816, 67 L. R. A. 455. The holding in the principal case is in accord with the decisions, and seems entirely sound on principle, the arrest being unnecessary to protect the company's property after good money had been exchanged for the suspicious money.

BAILMENTS—INJURIES TO BAILED ANIMALS—ELEMENTS OF DAMAGES.—The plaintiff bailed two horses to the defendant at an agreed rental. The horses were negligently injured by the defendant and returned to the plaintiff in an injured condition. The plaintiff employed a veterinary surgeon to treat the horses, and sued to recover the amount paid the veterinary. *Held*, the plaintiff can recover. *Mecom* v. *Vinton* (Tex.), 191 S. W. 763.

The usual measure of damages for injuries to animals is the difference in the market value of the animal before and after the injury. *Hoover* v. *Baltimore, etc., Co.*, 158 Ill. App. 292; *Wilson* v. *Seattle, etc., Ry. Co.*, 55 Wash. 656, 104 Pac. 1114. It is the duty of one who has been damaged by another to exercise all reasonable care and employ all reasonable remedies to reduce the damages; and this rule applies with peculiar force where the subject of the injury is an animal, since in such cases great damage may often be averted by the exercise of a little care. *French* v. *Vining*, 102 Mass. 132, 3 Am. Rep. 440. Since this duty is imposed upon the owner of the animal, he may recover any reasonable expense incurred in treating the injured animal. *Ulit* v. *Biggs*, 53 Tex. Civ. App. 529, 116 S. W. 126; *Sullivan* v. *City of Anderson*, 81 S. C. 478, 62 S. E. 862. And the bailor may recover the expense of any reasonable care to the animal, even though it dies. See *Pusey* v. *Webb* (Del.), 47 Atl. 701. And if the bailor acts in good faith, he may recover for veterinary services which were in fact improper and contributed to the death of the animal. *Eastman* v. *Sanborn*, 3 Allen (Mass.) 594. It also follows that the owner of the animal may himself recover for the time expended in treating the animal. *Gillett* v. *Western Ry. Corp.*, 8 Allen (Mass.) 560. The basis of the holding in all these cases is that if the animal recovers the bailee ultimately benefits by the services rendered it. *Watson* v. *Lisbon Bridge*, 14 Me. 201.

The plaintiff must, of course, act in good faith and with reasonable care in order to fix liability upon the defendant for the expense of treating the animal. *Eastman* v. *Sanborn*, *supra*. Thus, he cannot expend